



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,765	03/08/2004	Katsumi Ochiai	FS.20131US0A	1032
20995 7590 07/18/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER SWINEHART, EDWIN L				
ART UNIT 3617		PAPER NUMBER		
NOTIFICATION DATE 07/18/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

**Office Action Summary****Application No.**

10/795,765

**Applicant(s)**

OCHIAI, KATSUMI

**Examiner**

Ed Swinehart

**Art Unit**

3617

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/13/2008 has been entered.
2. Claim 8 is objected to, as "the the shaft" is ungrammatical. Correction is required in response to this action.
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 7, 18 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23, "the position sensing device" lacks antecedent basis in the claims.

In claims 4, 5, 7-9 and 18, "the signal generator" is unclear, as a plurality have previously been cited. It is therefore unclear whether the first or second is being referred to.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1,2,6,10-13,16,17 and 19-23 are under 35 U.S.C. 102(b) as being anticipated by Newman.

Neman provides a control system for a marine drive comprising a change element **71** that changes an operational condition of the marine drive, an actuator **65** arranged to actuate the change element, a control device **3** configured to control the actuator, an operative device **1c** remotely placed from the control device, the operative device having a movable member, and a signal generator configured to output a command signal to the control device, means for mechanically connecting the movable member to the signal generator, the signal generator generating a first command signal in response to a movement of the movable member, the control device controlling the actuator based upon the first command signal or a second command signal from an electronic remote device.

Re "or a second command signal from an electronic remote device", such fails to define over one of the other remote controls, **1b** or **1a**.

Re "signal generator", such is an inherency since the operative device outputs an electronic signal.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4,5,8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman.

Newman fails to show a push pull cable as claimed, as he employs a known equivalent in the form of a push-pull rod **201,221,102**. Various pivot pins are provided effecting connection of elements.

It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute old and well known equivalents, and in this instance, substitute a push-pull cable for a push-pull rod.

Such would have been desirable so as to allow some freedom in mounting components. Such would have provided results exactly as would be expected.

Re claim 5, the pivot pins are considered obvious connection/disconnection points, and to make such pivots disconnectable for purpose of maintenance or replacement of parts would have been well within the level of skill of the ordinary routineer working in the art, providing expected results.

Re claim 8, the mounting of a pivotable lever upon a shaft defining the pivot axis is considered old and well known in the art, and well within the level of skill of the ordinary routineer working in the art, providing exactly the results as would be expected. Since the signal generator devices of Newman include mechanical elements, they are mechanical remote devices as well as electrical remote devices.

9. Claims 1,2,4-7,9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okita in view of Hoshina.

Okita discloses the field of the invention, including a first signal generator (potentiometer) **44** remotely attached to a movable member **18** via a Bowden wire. A controller is provided, as well as actuator and change element. Okita fails to disclose the controller being "configured to be connectable" to an electronic remote control.

Hoshina teaches the attachment of an electronic remote control to a watercraft controller, to permit control of watercraft functions away from the helm station.

It would have been obvious to one of ordinary skill in the art at the time of the invention to permit the controller of Okita to accept connection of an electronic remote controller as taught by Hoshina.

Such a combination would have been desirable so as to permit control of the watercraft when the operator is remote from the helm station.

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Swinehart/  
Primary Examiner  
Art Unit 3617